



STATE OF DELAWARE

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July 19, 2015

**MEMORANDUM**

TO: The Chair and Members of the Commission

FROM: Toni Loper, Public Utility Analyst 

SUBJECT: IN THE MATTER OF THE APPLICATION OF RESIDENTS ENERGY, LLC FOR A CERTIFICATE TO PROVIDE ELECTRIC SUPPLY SERVICES WITHIN THE STATE OF DELAWARE (SUBMITTED JANUARY 6, 2016; FILED JULY 8, 2016) - PSC DOCKET No. 15-1739

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**Background**

On July 8, 2016, Residents Energy, LLC (the "Company") filed an application (the "Application") with the Delaware Public Service Commission ("Commission") for an Electric Supplier Certificate ("ESC") to act as a Supplier in the State of Delaware pursuant to §1012 of the Electric Utility Restructuring Act of 1999, 26 *Del. C.* §1001 - §1020 (the "Act") and 26 *Del. Admin. C.* §3001, the Commission's Rules for Certification and Regulation of Electric Suppliers (the "Supplier Rules").<sup>1</sup>

**Application**

The Company's original filing was submitted on January 6, 2016, but the submitted Application did not meet the minimum filing requirements ("MFR's"). Staff requested the Company file the following additional documentation: a) a copy of the Delaware business license, b) a detailed corporate structure, c) a copy of the most recent quarterly financial statement, d) a written statement by a principal or officer of the Company that the Applicant shall consent to the jurisdiction of the Delaware courts for acts or omission arising from their activities in Delaware, d) a revised residential and small commercial contract consistent with the requirements in the Supplier Rules, e) the mechanism the Company intended to use to satisfy the required \$100,000 of unencumbered assets set forth in section 2.1.1.5.9 of the Supplier Rules, and f) a signed, sworn verification letter of all supplemental filings as required. Follow-up documentation was received which satisfied the MFR's.

**Review and Analysis**

**Authority to do Business in Delaware**

The Company is a limited liability company formed under the laws of New York and has provided proof issued by the Delaware Secretary of State and the Delaware Division of Revenue that it is legally authorized and qualified to do business in the State of Delaware.

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<sup>1</sup> Unless otherwise noted, all references to capitalized terms are set forth in the Act and/or the Supplier Rules.

Resident Agent

The Company supplied the contact information for a Delaware Registered Agent listed in the Application as Corporation Service Company, Wilmington, DE.

Performance Bonds

The Company currently does not have a performance bond but stated in the Application that if a bond is required by the Electric Distribution Company ("EDC") the Company will secure the bond as required and provide the required documentation to the Commission.

Compliance with Regional Requirements

The Company provided proof of PJM membership. The Company provided a copy of the FERC approval as a marketer.

**Financial, Operational, Managerial and Technical Ability**

The Company provided officer verified confidential financial statements for Residents Energy, LLC as indicia of financial capability under Section 2.1.1.5.1 of the Supplier Rules.<sup>2</sup> The Company also provided proof of a minimum of \$100,000 of assets in excess of encumbrances as required in Section 2.1.1.5.8 of the Supplier Rules in the form of a cash or cash equivalents. Staff believes that the financial statements and proof of liquidity show substantial evidence of the Applicant's financial ability to provide services as an Electric Supplier in the State of Delaware.

The Company anticipates acting as a Supplier serving residential, small commercial, large commercial and industrial customers for the sale or purchase of electricity throughout the State of Delaware. The Application states that the Company is presently licensed to sell electricity in New York, New Jersey, Ohio and Pennsylvania with a pending application in Massachusetts. Staff confirmed that the Company is licensed in those states by conducting an internet search of the Secretary of State Websites for the states listed. The Application states that the Company has not been denied approval nor had its authority revoked by any state commission. The Company provided a toll-free customer service telephone number. Staff believes that this information shows substantial evidence of the Applicant's operational ability to provide services as an Electric Supplier in the State of Delaware.

During the course of Staff's investigation issues relating to Residents Energy's parent company IDT Energy, Inc. ("IDT") regarding complaint allegations in other jurisdictions for slamming were discovered. In an informal proceeding in Pennsylvania<sup>3</sup>, IDT entered into a Settlement Agreement and agreed to pay a civil penalty of \$39,000.00 and implement certain corrective actions, while admitting no wrongdoing. Staff engaged the Company in discovery questions regarding policies and procedures implemented to ensure that Delaware consumers are protected from slamming and other bad business practices relating to shopping. In a filing in this docket the Company outlined its strengthened policies and procedures to address this issue. The following is a brief overview of changes made by the Company; they have retained a previous Pennsylvania Public Utility Commissioner as their current Compliance Oversight Advisor, an additional Field Compliance Auditor whose role is to provide firsthand

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<sup>2</sup> 26 Del. Admin. C. § 1001- 1.11.3 of the Rules of Practice and Procedure of the Delaware Public Service Commission requires the party seeking proprietary treatment shall submit for filing one copy of the document without the confidential information, Residents Energy filed a redacted copy of the financial statements as required.

<sup>3</sup> Pennsylvania Public Utility Commission Docket No. M-2013-2314312, Filed on July 17, 2012.

information regarding overall quality of the Sales Representatives' sales and marketing practices to the Company's Compliance Officer, this is accomplished through announced and unannounced field audits. Additionally, the Company outlined the training procedures and quality control measures its third party vendors are required to follow. IDT did pay the assessed penalty in full and has implemented corrective action. Staff is satisfied that the Company has taken the necessary steps to protect Delaware consumers.

The Application included a summary of the key operating personnel of the Company. Mr. Alan Schwab, President, has over five years' of experience in the energy industry, and over 20 years' of experience in management positions where his responsibilities included work in various operational departments with a primary focus on provisioning, network engineering and facility management. His other responsibilities included sales, day-to-day operations, cost-cutting analysis, compliance, customer service, and technology. Mr. Avi Goldin, Chief Financial Officer, has over four years' experience in the energy industry and 15 + years of professional work experience. His experience in the energy industry includes responsibilities such as financial reporting, accounting, legal, and treasury and investor relations functions for Genie Energy Ltd. His previous work history also included responsibility for internal corporate development and strategic finance functions, financial oversight and management, sourcing and evaluating potential acquisitions. In addition he led a team of outside advisors and target company management teams to manage capital market activities and create strategic product roadmaps. The Company also provided detailed resumes for other key operating personnel in support of their Application. Staff believes that the Company has demonstrated substantial evidence that its staff has the operational, managerial, and technical abilities to perform as a Supplier in the State of Delaware. Staff performed an internet review of the key operating personnel and found no outstanding issues.

#### Surety Bond

The Company did not post a surety bond since it does not require Customers to provide deposits, prepayments, financial guarantees or the like.

#### Verification of Application

The Application and all subsequent filings were verified by Mr. Schwab, President, or by Mr. Goldin, Chief Financial Officer.

#### Consent to Jurisdiction

The Company consents to the jurisdiction of the Delaware courts.

#### Contracts

The Company did provide a sample residential and small commercial contract for Staff to review as a part of the Application. Staff requested that revisions be made to the contract to be consistent with the Supplier Rules, the Company submitted a revised contract for review. The Company asserted in the Application that the submitted contract would be used for both residential and small commercial customers. Staff reviewed the contract and believes that it is consistent with the Supplier Rules.

#### Statement of Criminal Activity

The Applicant stated that they have not been charged or convicted of any criminal activity nor have any of its principals or corporation offices. An internet review of the Company and its principals revealed no issues.

#### Public Notice

Residents Energy, LLC was advised that, pursuant to Section 2.2 of the Supplier Rules, the Company was required to publish notice of its filing in two general circulation newspapers in Delaware. The Company provided the appropriate affidavits of publication. Notice was published in the Delaware State News on March 30, 2016 and in The News Journal on March 31, 2016. There were no interventions, protests, or comments filed in the docket within the 20-day comment period.

#### Legal Review

During the review and analysis process and each phase of the request for additional documentation for this Application Staff communicated with the assigned Attorney to ensure that all required documentation requested and received from the Company was in compliance of Delaware Law and the Supplier Rules and regulations. Staff submitted this memo for review by the Attorney on July 20, 2016.

#### Staff Recommendation

Based on Staff's review and analysis of the Application, the Company has satisfied the requirements of the Act and the Supplier Rules. The Company resolved all outstanding issues with Staff and the completed Application supports the Company's request for certification. Staff's review and analysis of the Application submitted by the Company demonstrates substantial evidence of capability to render service and an Electric Supplier based on the Company's financial, operational, managerial and technical abilities. Therefore, Staff recommends the Commission approve the Application.